

**PUBLIC HEARING of the Town Council held Wednesday, August 22, 2007 at 7:00 P.M. in the Council Chamber, Town Building, Harrisville for and within the Town of Burrillville.**

**Council President Nancy F. Binns called the meeting to order at 7:00 P.M. Council President Binns announced that the hearing would move to the Media Center, Burrillville High School, 425 East Avenue, Harrisville, due to attendance exceeding the capacity of the Council Chamber.**

**The Hearing resumed at Media Center, Burrillville High School, 425 East Avenue, Harrisville at 7:20 P.M.**

**PRESENT: Council President Nancy F. Binns, Councilors Wallace F. Lees, Kevin M. Blais, Margaret L. Dudley, John M. Karmozyn Jr., Norman C. Mainville and Cynthia L. Roe**

**MEMBERS ABSENT: None**

**Relative to considering and acting on the petition from Carl S. Levin of Armstrong, Gibbons & Gyns, LLP on behalf of Scott and Nicole Gaulin regarding proposed amendments to the Revised General Ordinances of The Town of Burrillville 2004 Chapter 30 "Zoning" by adding the following:**

**§30-3. entitled "Definitions"**

**Lawn and plant care business includes the planting, fertilization, seeding, feeding, treatment and cutting of lawns; and the sale and planting, fertilization, feeding, treatment and trimming of shrubbery, small trees and flowers; and the storage of equipment and materials used in and for such business activities.**

**and §30-71, entitled “Zoning District Uses” Section 1. entitled “Agricultural Uses” by adding:**

**8. Lawn and plant care business;**

**and amending the use table to permit operation of lawn and plant care businesses in an F-5 Zone by special use permit.**

**NOTE: The notice of meeting and full description was advertised in the Woonsocket Call on August 8; and a summary description was advertised in the Woonsocket Call on August 14 and August 21, 2007.**

**1. Comments/Input from applicant.**

**Carl S. Levin of Armstrong, Gibbons & Gyns, LLP spoke on behalf of the petitioners, Scott and Nicole Gaulin, who, he said, have been operating GroPro at Colwell Road since 2005. He described the steps taken by his clients to maintain the business at that location. Mr. Levin said that the proposed change, which would allow for lawn and plant care businesses in F-5 Zones by special use permit, would provide the Zoning Board with sufficient oversight of such**

**businesses. Mr. Levin described lawn and plant care businesses as an agricultural activities rather than a service businesses, which he supported by citing definitions included in sections of the Rhode Island General Laws. Mr. Levin described the Gaulins' procedures and practices, as well as DEM regulations under which they operate.**

## **2. Comments/Input/Recommendations by the Administration (Town Solicitor, Town Manager).**

**Timothy F. Kane, Town Solicitor, explained the request and the authority of the Town Council in considering the zone change. Mr. Kane reviewed the specifics of the proposed amendments and referenced the Planning Board opinion. Mr. Kane cautioned that the proposed language does not provide standards by which the Zoning Board might set conditions, and he provided examples of guidelines that might be included, i.e. a buffer requirement, an accessory use requirement, etc.**

**Michael C. Wood, Town Manager, discussed the State law provision for an application, such as this one received from Scott and Nicole Gaulin, to amend zoning ordinances.**

## **3. Recommendation Planning Board.**

**Council President Nancy F. Binns read the recommendation from the Planning Board into the record:**

**TO: Honorable Town Council**

**FROM: Planning Board**

**DATE: August 15, 2007**

**RE: Application for Zoning Amendments to Section 30-3 Definitions;  
Section 30-71 Zoning District Uses**

**The Planning Board, at their meeting of August 6, 2007, reviewed a request from Attorney Carl Levin, representing Scott & Nicole Gaulin, for amendments to the Zoning Ordinance, in particular Section 30-3 Definitions and Section 30-71 Zoning District Uses. The proposed amendment to Section 30-3 Definitions would include a new definition for “Lawn and Plant Care Business”, and the proposed amendment to Section 30-71 Zoning District Uses would include a new use, “8. Land and Plant Care Business”, under Section 1 - Agricultural uses, and would require a Special Use Permit in the F-5 zoning district.**

**The Board voted unanimously to forward a recommendation to the Town Council that the language, within the definition, for the proposed zoning change is not favorable. The Board found that the zoning amendment request, as per RIGL 45-24-52, is not consistent with the Town’s Comprehensive Plan, specifically:**

**• Chapter II Natural & Cultural Resources, Goal II.3; Policy II.3.b; Implementation Action II.3.b.17;**

- Chapter IX Land Use, Goal IX.4; Policy IX.4.b; Implementation Action IX.4.b.1.

The Board noted that the negative recommendation is based upon the reference to “the sale of materials” as part of this use and that they could look more favorably upon the zoning amendment should the language be revised.

#### **4. Proponents:**

Albert Mottola, owner of the Western Hotel Pizza and Tavern, Nasonville, spoke in support of the proposal, discussing the environmental safety of the products used by the applicant. Mr. Mottola discussed the importance of supporting small business in town.

Maureen Esposito, Tarkiln Road, said that her family had operated landscape businesses from their property for over 25 years without problems in the neighborhood. Ms. Esposito spoke of the landscapers’ respect for nature and their tendency to improve property. Ms. Esposito discussed the difficulty of operating small businesses and explained the advantages of operating these from their homes. Ms. Esposito cautioned that excluding lawn care businesses from F-5 Zones would escalate, prohibiting other home occupations.

**Bernard Nordin, Nichols Road, addressed the difficulties of operating a farm, suggesting that lawn care and landscaping businesses are an appropriate means for farmers to supplement their business. Mr. Nordin said that lawn care and landscaping operators would be unable to continue in business if they had to purchase commercial space.**

**Michael C. Wood, Town Manager, requested that the solicitor clarify the proposal, based on the prior comments related to farming. Timothy F. Kane, Town Solicitor, reviewed the proposal, recommendations, and the referenced provisions of the Comprehensive Plan. Patrick J. Dougherty, Assistant Solicitor, explained that the proposed change does not relate to farms: an F-5 district, he said, allows farms by right. He said that whether or not the changes were adopted, the right to farm would not be changed. The public hearing, he said, addresses the specific issue of whether or not to allow lawn and plant care businesses in the F-5 district, and does not affect farming or home occupations.**

**Ethyl Merrill, Jackson Schoolhouse Road, spoke of the long farming history in town, the importance of supporting farming, and suggested that the current zoning laws are adequate. Ms. Merrill objected to the time and expense involved in the public hearing process, and suggested that the town should not become involved in a dispute among neighbors.**

**Newton Stevens of Pascoag spoke in support of the proposed changes. He discussed the necessity for zoning laws, but also addressed the satisfaction of using one's land fully. Mr. Stevens spoke of the high cost of purchasing commercial land for these types of business.**

**Dave Adkins of Smith Hill Road spoke in support of property owners doing what they want with their property, as long as other people are not affected. Mr. Adkins said he did not understand the venomous attitude towards the landscaping business. Mr. Adkins suggested that if the language of the proposal were defective, then the proposal should be revised.**

**Attorney Levin noted that the Town Council has the ability to alter the proposal and suggested that the applicants would support alternative language.**

## **5. Opponents:**

**Ronald Pennington and Robert Cote of Colwell Road spoke in opposition to the proposed amendments. Mr. Pennington addressed the Town Council on behalf of the residents of Colwell Road who oppose the proposed changes. He said that he and those residents do not oppose agricultural use of the F-5 Zone that is within the zoning code. Mr. Penning reviewed the Zoning Board resolution relative to GroPro and discussed the Planning Board**

**recommendation.**

**Mr. Pennington recommended that, while the Comprehensive Plan and zoning ordinance may require amendment, the best approach would be to study the entire ordinance, recognize the consequences of inappropriate changes, and to stay with the village concept and focused planning of the Comprehensive Plan. This, he said, would ensure a consistent approach to change within the town zoning districts.**

**Mr. Pennington suggested that the current proposal is an attempt to circumvent the Zoning Board's ruling, the appeal process and the Comprehensive Plan. He said that the amendments would benefit one business without regard to the affect on the majority who live in the F-5 Zone.**

**Mr. Pennington displayed maps which he said demonstrate current zoning and proposed zoning.**

**Note: these maps were marked "Objectors' #1" and "Objectors' #2"; they are on file with the record of the hearing.**

**Mr. Pennington said that service businesses are not allowed in F-5 but are allowed in the Village Commercial and General Commercial districts; that zoning, he said, supports the Comprehensive Plan.**



**Mr. Pennington discussed specific objections that the residents of Colwell Road had to GroPro, the business owned by Scott and Nicole Gaulin on Colwell Road. Photographs of the area were submitted to the Town Council and marked “Objectors’ #3” by the clerk. The photographs are on file with the record of the hearing. Objections included the number of vehicles, traffic, equipment, and water safety. Mr. Pennington submitted a sample which he identified as material left by GroPro’s hydro seeder. The sample was marked “Objectors’ #4” by the clerk and filed with the record of the hearing.**

**Mr. Pennington suggested that the barn used by GroPro was being used for other than the stated use on the building permit. A copy of the permit was submitted to the Town Council; it was marked “Objectors’ #5” by the clerk and filed with the record of the hearing.**

**Mr. Pennington voiced concern that, should a lawn and plant care business located in an F-5 Zone be sold, the seller might split the lot, claim a hardship, and sell the property to a different type of business.**

**Mr. Pennington summarized his comments, saying that he and the residents of Colwell Road who opposed the zoning change are against zoning changes that would allow service-oriented businesses and would cause uncontrolled growth within the F-5 Zone. He asked that the Town Council take into account all the facts and concerns and agree that the way to address the issue is through a joint effort by town government, using the Comprehensive Plan as the guide.**

**Paul MacDonald of Colwell Road opposed the proposed changes. Mr. MacDonald spoke of the importance of protecting the beauty of the town for future generations. Mr. MacDonald spoke in support of business but suggested that businesses must comply with town laws and rulings.**

**Bruce Smith of Club Lane suggested that adopting the proposed changes would destroy the town's rural character for the benefit of a corporation.**

**Ron Ricapito of Colwell Road said that he supported small business but was concerned about how large a lawn and plant care business might grow. Mr. Ricapito submitted a photograph of a trailer truck blocking the road. Mr. Ricapito said that he had taken the picture in the fall of 2005. He said the truck was located on Colwell Road, opposite the entrance to GroPro. The photograph was marked "Objectors' #6" by the clerk and filed with the record of the hearing.**

**Ted Bertrand of Wallum Lake Road said that, while he did not object to an individual operating a lawn care business on his property, he did oppose amending the zoning ordinance, which would put undue burden on the town. Mr. Bertrand said the situation appeared to be a neighborhood dispute. Mr. Bertrand discussed the DEM regulation of fertilizers.**

**Ed Szymanski of Snake Hill Road, a resident of an F-5 Zone, said that he appreciates the character of an F-5 Zone. He asked that the Town Council reject the proposal. Mr. Szymanski noted Attorney Levin said that the zoning change would do no harm; Mr. Szymanski strongly disagreed.**

**Kathleen McGowan of Snake Hill Road spoke of moving to the Town of Burrillville to have a beautiful place to raise their family; she discussed positive experiences in a rural environment. Ms. McGowan said that, while she was happy that the Gaulins are doing well with their business, she was concerned that businesses in F-5 Zones could expand and impact the peace and quiet of the neighborhood. She suggested that the current zoning, which has successfully maintained the rural character of the community, should remain.**

**John Badzmierowski of Colwell Road said that he joined nearly all of the Colwell Road residents in opposing the proposed changes. Mr. Badzmierowski discussed the difficulties the residents experience when a business operates in an F-5 Zone, providing examples. Mr. Badzmierowski supported maintaining the neighborhood's way of life.**

**Sandra MacDonald of Colwell Road concurred with Ms. McGowan and Mr. Badzmierowski. Ms. MacDonald spoke of the importance of maintaining businesses in the proper area, the effect that businesses have on neighborhoods and opposed changes to the ordinance.**

**6. VOTED to close the public hearing.**

**Motion by Councilor Wallace F. Lees. Seconded by Councilor Norman C. Mainville. The vote was unanimous. Voting in favor of the motion were Council President Nancy F. Binns and Councilors Wallace F. Lees, Kevin M. Blais, Margaret L. Dudley, John M. Karmozyn Jr., Norman C. Mainville and Cynthia L. Roe.**

**Carl S. Levin of Armstrong, Gibbons & Gyns, LLP, said that the photographs introduced did not represent the current status of the property and asked that Scott and Nicole Gaulin be allowed rebuttal. Mr. Levin said that the item marked “Objectors’ #4” is mulch. Gaulins’ property had received farmland designation.**

**Note: The applicants were allowed an opportunity to respond to comments made during the course of the public hearing.**

**Scott Gaulin of Colwell Road said that they bought the property with the intention of having a nursery and landscape business, which takes time and money to accomplish. Mr. Gaulin said that they have worked hard so that the property would not look like a business. Mr. Gaulin said that the business has not grown since they purchased the house: they have the same number of vehicles.**

**Mr. Gaulin spoke of the steps taken to address neighbors’ concerns;**

i.e. constructing the barn and storing fertilizer. Mr. Gaulin discussed the use of the hydro seeder and said that materials cannot leech from the hydro seeder into the water. He further identified the material submitted as “Objectors’ #4” as paper, mulch and seed, saying that the business tries to remain organic and natural.

Mr. Gaulin said that they had erected a fence and a new driveway to address the neighbors’ concerns; he said that trailers move more easily and no longer block the road.

Nichole Gaulin repeated that the property has attained farm status through the State. She repeated that the business uses organic-based fertilizers and should not be of concern; that there is limited traffic to the house; that the proposed wording was submitted because nurseries generally sell and install the product that they grow. Ms. Gaulin repeated that many changes have been made to improve the property since the photograph (Objectors’ #3 and #6) were taken. Ms. Gaulin suggested that farms that grow nursery stock need to supplement with lawn and plant care businesses because they work together.

## **7. Town Council Members Comments/Input/Deliberation:**

Councilor Wallace F. Lees spoke of canvassing neighborhoods during political campaigns, during which residents consistently support maintaining the rural character of the town. Councilor Lees

said that he could not go back on the promise to do so and could not, therefore, support the proposed changes.

Councilor John M. Karmozyn, Jr. spoke of preserving the rural character of the town. Mr. Karmozyn said that while he is a proponent of small business, he also believes in following rules. Mr. Karmozyn suggested that a review of the current zoning ordinance shows that they are working and he could not support the proposed amendments as worded.

Councilor Kevin M. Blais thanked those who attended the hearing, noting that he had spoken to more than 100 people on the issue. The vast majority of those people, he said, supported the changes. Councilor Blais said that he would support the changes because the residents have made it clear to him that keeping the town rural means allowing home businesses, i.e. farming and agricultural uses.

Councilor Cynthia L. Roe empathized with the applicants, but found that lawn and plant care is a service business not appropriate for an F-5 Zone. Councilor Roe believed that the proposed amendment could lead to more commercial businesses, impacting the rural character of the town. Councilor Roe said she did not believe that denying the amendment would affect farming. Councilor Roe spoke in support of the zoning appeal process, which should be allowed to play out before amendments to the ordinance were considered. Councilor Roe said that she did not feel comfortable second guessing

**the Zoning Board and Planning Board, and would not support the proposed amendment.**

**Councilor Margaret L. Dudley pointed out that the Town Council's five-year plan includes updating the zoning ordinance. Councilor Dudley opposed spot zoning and suggested that a comprehensive review would be more appropriate than a reactive approach.**

**Councilor Norman C. Mainville discussed early efforts that established zoning in the town. Councilor Mainville said he believed that approving these amendments would set back the zoning and Comprehensive Plans. Councilor Mainville said that there have been businesses that started in an F-5 Zone, but when they expanded they moved to commercial areas. Because the changes would be inconsistent with the Comprehensive Plan and contrary to the recommendation of the Planning Board, he said he could not support the changes.**

**Councilor Kevin M. Blais asked whether it would be appropriate to have a recommendation from the Zoning Board. Timothy F. Kane, Town Solicitor, reviewed the requirements for an applicant to request a zoning change, as set forth in the Rhode Island General Laws.**

**Council President Nancy F. Binns said that, while the applicants had demonstrated their willingness to work with their neighbors, a lawn and plant care business is a service business that does not conform**

to the Comprehensive Plan. Council President Binns strongly opposed the proposed amendments.

**8. VOTED to deny the proposed amendments to the Revised General Ordinances of The Town of Burrillville 2004 Chapter 30 “Zoning”**

**Motion by Councilor Norman C. Mainville. Seconded by Councilor Margaret L. Dudley. The motion carried, six in favor, one opposed. Voting in favor of the motion were Council President Nancy F. Binns and Councilors Wallace F. Lees, Margaret L. Dudley, John M. Karmozyn Jr., Norman C. Mainville and Cynthia L. Roe. Councilor Kevin M. Blais voted in opposition, noting for the record that he was opposed because of the language as it is listed.**

**9. VOTED to adjourn at 8:50 P.M.**

**Motion by Councilor Margaret L. Dudley. Seconded by Councilor Norman C. Mainville. The vote was unanimous. Voting in favor of the motion were Council President Nancy F. Binns and Councilors Wallace F. Lees, Kevin M. Blais, Margaret L. Dudley, John M. Karmozyn Jr., Norman C. Mainville and Cynthia L. Roe.**

**The hearing was taped. The tape is on file with the record of the hearing.**



**Louise R. Phaneuf, Town Clerk**